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BEFORE THE ARIZONA CORPORATION COMMISSION

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CHAIRMAN

BOB STUMP
COMMISSIONER

BOB BURNS
COMMISSIONER

TOM FORESE
COMMISSIONER

ANDY TOBIN
COMMISSIONER

**IN THE MATTER OF THE
APPLICATION OF ARIZONA PUBLIC
SERVICE COMPANY FOR A HEARING
TO DETERMINE THE FAIR VALUE OF
THE UTILITY PROPERTY OF THE
COMPANY FOR RATEMAKING
PURPOSES, TO FIX A JUST AND
REASONABLE RATE OF RETURN
THEREON, TO APPROVE RATE
SCHEDULES DESIGNED TO DEVELOP
SUCH RETURN.**

DOCKET NO. E-01345A-16-0036

Arizona Corporation Commission
DOCKETED

NOV 04 2016

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**IN THE MATTER OF FUEL AND
PURCHASED POWER PROCUREMENT
AUDITS FOR ARIZONA PUBLIC
SERVICE COMPANY.**

DOCKET NO. E-01345A-16-0123

**SUPPLEMENTAL STATEMENT OF
AUTHORITY BY THE ENERGY
FREEDOM COALITION OF AMERICA
IN RESPONSE TO MOTION FOR
PROTECTIVE ORDER**

Energy Freedom Coalition of America ("EFCA") submits the following Supplemental Statement of Authority in support of its October 12, 2016 Response to Arizona Public Service Company's Motion for Procedural Conference and Interim Protective Order.

In addition to all of the arguments asserted by EFCA in its earlier response and those advanced during the hearing on October 20, 2016, EFCA wants to draw the Commission's

1 attention to A.R.S. §40-244 which permits depositions in proceedings before the Corporation
2 Commission, specifically this section provides:

3 40-244. Administration of oaths and certification to official acts by
4 commissioners; taking of depositions; witness fees and mileage

5 A. Each commissioner may administer oaths and certify to all official acts.
6 The commission, or a commissioner, **or any party, may take depositions** as in a
court of record.

7 [Emphasis added]. This statute contains no limitations on the right to take a deposition. This
8 statute is consistent with Arizona's deposition rules which deserve "a broad and liberal treatment"¹
9 and the Commission's own administrative rules which provide that "The Commission, a
10 Commissioner, or any party to any proceeding before it may cause the depositions of witnesses to
11 be taken in the manner prescribed by law and of the civil procedure for the Superior Court of the
12 state of Arizona."²

13 Even if APS were arguing that the Commission's Rules regarding depositions were
14 somehow outdated or worthy of modification, which EFCA maintains is incorrect, the
15 Commission does not have the ability to modify this statute giving EFCA the right to take the
16 deposition of Ms. Lockwood as if this were a court of law.

17
18 Respectfully submitted this 4th day of November, 2016.
19

20 **Rose Law Group pc**

21 /s/ Court S. Rich

22 Court S. Rich

23 Attorney for EFCA
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28 ¹ *Skok v. City of Glendale*, 3 Ariz. App. 254, 257-58, 413 P.2d 585, 588-89 (1966).

² Ariz. Admin. Code R14-3-109(P).

1 **Original and 13 copies filed on**
2 **this 4th day of November, 2016 with:**

3 Docket Control
4 Arizona Corporation Commission
5 1200 W. Washington Street
6 Phoenix, Arizona 85007

7 *I hereby certify that I have this day served a copy of the foregoing document on all parties of*
8 *record in this proceeding by regular or electronic mail to:*

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